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HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES
FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS

Letter dated 22 September 1994 from the Permanent
Representative of Colombia to the United Nations
addressed to the Secretary-General

I have the honour to submit herewith the text of the message delivered by the President of the Republic of Colombia, Ernesto Samper, to all Colombians in connection with the observance on 9 September 1994 of National Human Rights Day.

The text contains the general outline of the new policy for the protection of human rights in Colombia, and puts forward innovative elements relating to the safeguarding of the fundamental rights of the individual.

I should be grateful if you would have this letter and the message annexed hereto circulated as a document of the General Assembly under item 103 (b) of the provisional agenda.

(Signed) Julio LONDOÑO
Ambassador
Permanent Representative

* A/49/150.

ANNEX

Message delivered by the President of Colombia to all Colombians
in connection with the observance on 9 September 1994 of
National Human Rights Day

On the occasion of the observance today of National Human Rights Day, the President of the Republic has issued the following statement, indicating the central elements of the current Government's human rights policy.

I. HUMAN RIGHTS IN COLOMBIA AND THE INTERNATIONAL COMMUNITY

The national Government is fully aware that the question of human rights is one of realities and not one of appearances. We in Colombia must reduce the level of, and ultimately put a stop to, violence, political violence and human rights violations. Until we succeed in working with determination and dedication towards that end, and until we obtain tangible results, we shall be failing in our duties to ourselves as citizens of a democratic, modern and civilized nation.

Further, pursuance of a human rights policy has become a precondition for the opening up of new markets, the creation of investment opportunities and gaining access to strategic materials. Colombia cannot afford to be left behind in the globalization of development opportunities through any failure to comply with basic commitments in connection with the defence of fundamental rights.

Despite the difficult circumstances which Colombia is experiencing in terms of violence and public order, let us accept the challenge of showing the international community that Colombia is a country that is working unflaggingly to promote respect for human rights and international humanitarian law within its borders, that is not afraid to accept the scrutiny of intergovernmental organs and of non-governmental international human rights organizations, and that is seeking to promote the development of international law in these areas.

In pursuance of these objectives:

(a) We have issued invitations to the United Nations Commission on Human Rights Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. The Special Rapporteurs will receive full support from the Government and will be completely independent and free to travel at their discretion throughout the country and interview any individuals or groups they wish to;

(b) We have invited the United Nations High Commissioner for Human Rights to visit the country, and we shall provide assistance and support to enable the High Commissioner to become familiar with the specific reality of our commitment to defend human rights;

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(c) We shall pay particular attention to the recommendations made by technical intergovernmental bodies on policies and measures to be adopted in future to promote and protect human rights;

(d) We shall review the situation of the country in terms of international human rights law and international humanitarian law to determine the nature and degree of compliance with the instruments under which we already have commitments. We shall implement a plan of action relating to the adoption of such internal measures as are necessary for appropriate implementation of international human rights law and international humanitarian law;

(e) We shall invite Amnesty International to open a permanent office in Colombia to monitor the human rights situation; and

(f) We shall submit to the Congress of the Republic for review a bill which would authorize the national Government to defray, from the national budget, the cost of compensation and damages for violations of fundamental rights, where payment has been ordered by intergovernmental human rights bodies.

II. REGULATION OF THE INTERNAL ARMED CONFLICT

The consolidation of peace is a prerequisite for the full observance of human rights in Colombia. This is one of the reasons why the current Government has committed itself fully to the peace endeavour, in which it hopes that it can rely on the support of every element within the State and society.

The High Commissioner for Peace has responsibility for bringing about conditions in which a lasting peace can be attained: respect for human rights is one such condition.

The existence of an internal armed conflict cannot serve as a pretext for violations of human rights and of international humanitarian law. The treatment received by members of government forces and of insurgent groups no longer capable of combat, or the civilian population trapped in conflicts and affected by their outcome, has differed, as is well known, at various times in the international and national history of conflict. Yet there must be an end to brutality and barbarity in the conduct of hostilities. These must be countered through systematic and ongoing efforts to regulate conflict and make it less inhumane.

Bearing these considerations in mind, the Government has submitted to the Congress of the Republic for review a bill which would approve Colombia's accession to additional Protocol II to the 1949 Geneva Conventions on international humanitarian law. It is public knowledge that the armed forces of a State are obliged to act within the parameters of international humanitarian law, in consonance with article 3 of the various Geneva Conventions, adopted by Colombia in Act No. 5 of 1960. Nevertheless, accession to the refinements of humanitarian law contained in Protocol II would reflect progress for various reasons:

(a) Colombia's accession to Protocol II would be a gesture of great importance as an expression of the will of the State and Government to make the armed conflict being experienced by the country less inhumane;

(b) If Colombia accedes to the Protocol it will send a clear signal to all members of government forces of the firm determination of the public authorities that any offensive or defensive military activity by the State must be carried out in full respect for the fundamental rights of Colombian citizens;

(c) Accession would also mean the availability of highly appropriate criteria on interpretation, as well as of developments and additions to the rather truncated provisions of article 3 which is common to the Geneva Conventions, enabling these to be applied strictly and carefully in the various circumstances arising in armed confrontation;

(d) Lastly, the very fact of issuing the act of accession, would constitute a deeply significant ethical and political notice to the forces of subversion that they should cease carrying out atrocities against members of government forces in defenceless situations - and, in general, against the civilian population - in the conduct of their campaign - which is, moreover, illegitimate and illegal - against the Colombian State.

It should not be forgotten that one of the factors which has had the greatest impact in the worsening of the armed confrontation in Colombia is the widespread employment by guerrilla forces of practices which are at great variance with rules on the regulation of war. To avert any further such deterioration in the confrontation, public opinion must remain critical and vigilant regarding acts by subversive elements, as viewed from the perspective of international humanitarian law.

III. THE STRUGGLE AGAINST IMPUNITY

Impunity has become a factor in the multiplication and expansion of human rights violations in Colombia. It must therefore be dealt with firmly.

This serious situation reflects deep-rooted problems in Colombian society. Firstly, we are faced with increasingly widespread criminal behaviour, exceeding the capacity of the judicial system to cope with it. In order to deal with this situation, the Government will take additional steps in the direction of increasing the State's efforts to provide the judiciary with the human, financial, material and technical resources necessary to its task. Particular attention will be given to the proper control of the resources provided, so that they are invested and spent in accordance with modern management principles. The problem is not only one of financing, but also of the administration of justice.

Not only has impunity in Colombia reached frightening levels, but - and this is less well known - it exists in connection with crimes committed against people from all social and political backgrounds. The rates of impunity in respect of the murders of the 500 police officers who have lost their lives in Medellín in recent years, the murders of political party leaders and activists

who have paid with their lives for pursuing legitimate activities, and the kidnappings of ranchers, shopkeepers and businessmen of widely varying social levels, are no lower than those regarding the murders of members and supporters of opposition groups and of leaders and activists of trade union, civic and social movements.

It is however undeniable that impunity arouses greater feelings of revulsion when the crimes are committed directly by agents of the State or with their collusion, since government authorities' very reason for being is to ensure respect for the rights of each and every member of society. The State must therefore act with all due vigour to punish those who betray their trust as guardians of democratic legality. To that end, the Government will proceed with a firm and resolute political will.

In order to overcome impunity, we intend to work in various ways, including the following:

(a) In order to clear the judicial backlog, we will present a Bill in Congress to speed up the proceedings so that offenders do not wind up having to be released because of the ban of the statute of limitations, which is the legal equivalent of the "dream of the unjust";

(b) We will urge the Office of the Attorney-General to give high priority to the investigation of human rights violations by creating special prosecuting units for that purpose;

(c) We will expedite the reform of the military system of justice, adapting it to the Constitution of 1991 and reinforcing it as an effective instrument for the investigation and punishment of crimes committed by members of government forces on active service and in connection with that service;

(d) We will give especially high priority to the investigation of certain particularly heinous instances of human rights violation, and in particular of massacres and killings which have occurred on several occasions and have caused public indignation;

(e) We will reinforce, to the maximum possible extent, the witness protection programmes of the Attorney-General's Office, giving especial support to activities designed to shield those who make statements or provide evidence in criminal or disciplinary cases arising from human rights violations;

(f) In concert with organizations made up of the victims or their relatives or co-workers, we will expedite those prosecutions arising out of killings, forced disappearances and torture which have been inflicted on members of particular groups, such as trade union organizations, opposition groups, the indigenous population, journalists and human rights activists;

(g) We will reactivate and rationalize inter-agency arrangements for the recording and follow-up of cases of human rights violation and for expediting corresponding proceedings. An Executive Committee on Human Rights will be set up, with representatives of the Special Prosecutor (Procuraduría), the Ombudsman

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(Defensor del Pueblo), the Presidential Council on Human Rights, the Attorney General and the Ministry of Foreign Affairs;

(h) We will work to strengthen the internal monitoring of government forces by enhancing both the quality and the quantity of the human, technical and material resources available to them.

IV. OTHER MECHANISMS AND MEASURES FOR THE PROTECTION AND DEFENCE OF HUMAN RIGHTS

In order to make the human rights protection mechanisms more comprehensive and effective, we will also adopt the following measures:

(a) We will set up human rights offices at all military garrisons and police stations in order to monitor human rights and to ensure that military and police personnel are familiar with such rights;

(b) Steps will be taken to ensure that officials from the courts and from the Office of the Attorney-General can obtain access to those places or regions where their presence may be required for the fulfilment of their legal duties. To this end, a coordinated programme will be set up, devised with the help of the law enforcement agencies and the executive branch of the State, including in particular senior military and police authorities. It is the Government's clear intention that this participation shall under no circumstances become an obstacle to the confidentiality and effectiveness required by these operations;

(c) We will give our full support to the International Committee of the Red Cross to enable it to obtain prompt and complete information from all Government authorities regarding any arrests and detentions carried out, and to visit all centres of detention and imprisonment existing throughout the country;

(d) We will provide support to municipal agents for the purposes described in the previous paragraph, within the area of jurisdiction of each one.

V. ERADICATION OF "PARAMILITARISM"

It is public knowledge that what is referred to as "paramilitarism" is very closely linked to the "territorialization" of a share of the proceeds from drug trafficking, which undermines the legitimate monopoly which the State should have over law enforcement. The issue of private law enforcement groups should therefore be addressed as part of the global strategy to combat paramilitarism.

There is another quite limited phenomenon, namely, the rural "self-defence units" which have been established in response to the violations committed by subversive groups. Sometimes these groups, instead of being merely defensive, move to the offensive, proselytizing in a coercive manner and attacking and committing crimes against persons who support - or who are believed to support - the guerrillas.

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Accordingly, the phenomenon of private law enforcement groups must be addressed by an overall strategy, which the Government must formulate and apply consistently. Such a strategy might consist of:

(a) Updating the offences outlined in decrees 813, 814 and 815 of 1989 with a view to combating self-defence units and private law enforcement groups;

(b) Dealing with the effect of the "territorialization" of proceeds from drug-trafficking on the formation of irregular armed groups in the context of a global strategy against drug trafficking;

(c) Supporting the commitment undertaken by the office of the Attorney General to adopt efficient mechanisms to combat private law enforcement groups, for example by establishing special units for the investigation and punishment of offences committed by such groups;

(d) Designing and implementing a policy specifically aimed at ensuring that the members of such groups are brought to justice.

VI. PROGRAMMES FOR PERSONS DISPLACED BY POLITICAL VIOLENCE

The Colombian Government recognizes that violence is resulting in the forced displacement of people within the country. This phenomenon has not been properly studied and there are no reliable estimates of its magnitude. It is caused by a combination of factors, one of them being guerrilla activity. None the less, the State has a clear responsibility with regard to the forced displacement of persons.

Some of the steps we intend to take in that connection are:

(a) Include the question of displacement in the development plan being elaborated by the current administration;

(b) Address the emergency needs of recently displaced persons and promote and finance productive projects in order to create jobs and to meet the basic needs of displaced persons and population groups, drawing on the resources of the Social Solidarity Network and other social funds;

(c) Establish promptly legal norms in the interests of the rural population which has been displaced by violence and is now crowded into the cities so as to enable it to benefit from the agrarian reform system through, inter alia, such instruments as loans and subsidies;

We will also devote particular attention to identifying the processes and dynamics of violence which are causing these population movements in various regional and local contexts. We will attempt to check such processes and, when the safety of these persons is no longer at risk, develop programmes for their voluntary return to their places of origin.

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VII. HUMAN RIGHTS EDUCATION

The Colombian Government will do its utmost to implement fully the legal provisions concerning the human rights education of Colombian children and youth.

Special attention will be devoted to the question of the human rights education of members of government forces.

The attitude of the military and police forces in this regard is one of openness and commitment. This attitude is manifested in different ways. The number of hours devoted to the subject of human rights has been increased in a number of training school programmes. There is a trend towards redesigning the curriculum in order to cover the subject more fully. Academic sessions for the training of instructors and trainers have been held and campaigns for the wide dissemination of information on basic human rights to non-commissioned officers, soldiers and police officers have been launched. A whole new teaching method is being applied to human rights and international humanitarian law.

I should stress, in particular, that all these advances have been achieved with the firm support of the military authorities.

In order to ensure that the spread and development of this dynamic will bring about optimum results, the Government will consider the possibility of sponsoring a law which would establish the objectives of human rights training for members of government forces, the curriculum, the number of hours required and the qualifications required of the instructors.

The Government's aims go way beyond what we have described above. It is well known that the problem of political violence and of human rights violations in Colombia is occurring in the context of a crisis in the underlying values of harmonious social relations and of widespread aggressive behaviour and attitudes in the most diverse spheres of daily, family, working and street life. In order to combat these very serious phenomena, we must develop comprehensive citizen training and mobilization programmes based on an ethic which champions life, social harmony and respect for rights. It is the Government's intention to formulate a broad appeal, to all State bodies and to the hundreds of thousands of persons and organizations which constitute civil society's ethical and democratic reserves, to work on the design and implementation of such training and mobilization programmes.

VIII. SECURITY OF THE PEOPLE

The Government will undertake a review of the reform of the National Police, which is dealt with in Act No. 62 of 1993. We will evaluate the regulations established under the Act, the institutional developments to which they have given rise and the way they have been applied in practice. Based on this evaluation we will determine the criteria to be followed in consolidating and pursuing the reform.

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One aspect of the reform that the Government views with great interest is the system of citizen participation in police matters. As it is anxious to find a way to promote a democratic and participatory approach to citizen security the Government has given priority to the issue of the ties that must exist both between communities and between them and the National Police. We are convinced that the police force as an institution is fully prepared to expand and strengthen those relationships and to put into practice the mechanisms provided in Act No. 62 of 1993 for that purpose. We will strive to give those mechanisms the full scope and force which they were intended to have.

The Government believes that, in order to deal more effectively with the escalating crime and violence afflicting Colombian society, it is necessary to strengthen existing instruments with norms and activities that will improve the relationship between the different State law-enforcement agencies and the people. Only if the communities take it upon themselves to ensure the security of all and combine their efforts with those of the authorities, in harmony and cooperation, will Colombians be able to achieve what they most desire: security of life and property, respect for the dignity and honour of individuals and favourable conditions for the development of initiative and hard work.

The mechanisms for ensuring peace and justice must be flexible, responsive to the needs of each region and conducive to citizen participation. Governors and mayors must learn to make full use of their oversight functions and must participate in decisions and plans relating to security. There should be means whereby people could participate in disturbance preparedness plans, support and activate police procedures and maintain democratic watchdog groups governed by the law, which would enable the State to guide social relationships more effectively.

Accordingly, the Government is studying the elaboration of regulations for the protection of citizens, which would provide the State and civil society with appropriate means to begin the formidable task of restoring to Colombians their hopes for a just, free, peaceful and civilized society, where current problems of crime and violence would have no place and no possible future.

IX. OTHER ASPECTS OF THE LEGISLATIVE AGENDA

In addition to the topics already mentioned as part of the legislative agenda in the area of human rights which the National Government plans to promote, we will attempt to address others which have a direct effect on relevant aspects of the issue.

We will promote the criminalization of genocide, child abuse and abuse of the most vulnerable groups in society, and we will support the regulation of enforcement actions and of the public right of action. We will pay close attention to the discussion of the proposals coming from other areas of the State and civil society on such topics as the regulation of habeas corpus and the criminalization of terrorism. In addressing these questions, the Government will always be guided by a concern for safeguarding the fundamental rights of all citizens, democratic institutions, and harmonious relations among the people.

X. RELATIONS WITH NON-GOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS

The current Government will have an open-door policy towards individuals and private organizations devoted to the promotion and protection of human rights. It will consider them allies in the task of safeguarding the fundamental rights of the inhabitants of our native land. The Government will have discussions with such organizations whenever necessary on any diagnoses and criticisms they may offer and any policies they may propose for addressing the various aspects of the above-mentioned problems; it will expect them to be objective in their judgements and to provide sound analyses, but it will not disqualify such groups or attempt to strip them of legitimacy. The Government will seek to maintain constructive relations with human rights organizations in an attempt to stop violations of those rights, and will do whatever is necessary to protect the lives and integrity of their members.

The Government will promote procedures for coordination of policies and measures for the protection and defence of human rights, and will heed any suggestions that may be made on the subject. In the understanding that fundamental rights as such are non-negotiable, it holds the conviction that the elaboration of mechanisms to safeguard these rights in specific contexts should, as a general rule, be a matter for democratic deliberation. It will join in such deliberations with all seriousness, with respect for its critics and in good faith.

Fellow Colombians: Let us show the international community that we are a country committed to the protection of fundamental rights. No matter how great the efforts we must make or the sacrifices we must accept, we will prove to the world that we are a country under the rule of law and a sound democracy whose armed forces respect the people, and as such we will make good this commitment. We invite all, on this National Human Rights Day, to look with optimism towards the future of Colombia.
